

Appendix B2

**PROTOCOL FOR THE TRIBES' AUTHORIZATION OF THEIR MEMBERS' USE OF
IMPOUNDMENT NETS AND LONG SEINES IN NON-WALLEYE LAKE SYSTEMS**

This Protocol is adopted in accordance with Section XII of the Decree. The provisions of this Protocol are intended to facilitate implementation of Section XII of the Decree but shall not relieve any party of any obligation it has under the Decree. In the event of any inconsistency between the provisions of the Decree and the provisions of this Protocol, the provisions of the Decree shall be controlling. Except as authorized by this Protocol or otherwise authorized in the Decree or by mutual agreement of the Tribes and the State, the Tribes shall prohibit their members from using Impoundment Nets or Long Seines in Non-Walleye Lake Systems. However, notwithstanding any other provision of this Protocol, if the State permits State licensees to use Impoundment Nets or Long Seines in Non-Walleye Lake Systems: (1) the Tribes may permit their members to use Impoundment Nets or Long Seines subject to regulations that are no less restrictive than applicable State regulations; and (2) the Tribes and the State shall make appropriate adjustments, as may be necessary, to the provisions of this Protocol.

I. INTRODUCTION

1.1. Use of Impoundment Nets and Long Seines in Non-Walleye Lake Systems. In accordance with Paragraphs 12.1 and 12.3 of the Decree, the Tribes may authorize their members to use Impoundment Nets and Long Seines throughout Non-Walleye Lake Systems as provided in Protocol described in this Appendix B2, *provided* that the Tribes shall not authorize their members to use Impoundment Nets or Long Seines in tributaries to Non-Walleye Lake Systems except where the use of such gear is permitted by State law or Paragraph 11.4 of the Decree. Short Seines are not subject to the provisions of this Protocol.

1.2. Tribal Authorization of Fishing with Methods Other Than Impoundment Nets and Long Seines Not Restricted. Except as provided in Section VI of this Protocol, the Tribes' authorization of their members' use of fishing methods other than Impoundment Nets and Long Seines in Non-Walleye Lake Systems is not limited by this Protocol.

II. DEFINITIONS

As used in this Protocol, the terms defined in Section III (Definitions) of the Decree shall have the meanings ascribed to them in that Section and the terms defined in Section II (Definitions) of Appendix B1 shall have the meanings ascribed to them in that Section.

III. NON-WALLEYE LAKE SYSTEMS

All Lake Systems that are not being managed as Walleye Lake Systems under Section III (Walleye Lake Systems) of Appendix B1 shall be managed as Non-Walleye Lake Systems under this Appendix B2.

IV. INTERIM THRESHOLD LEVEL PROCEDURES FOR THE TRIBES' AUTHORIZATION OF THEIR MEMBERS USE OF IMPOUNDMENT NETS OR LONG SEINES IN NON-WALLEYE LAKE SYSTEMS

4.1. Application of Interim Threshold Level Procedures. Unless one or more of the Tribes invokes Allocation-Based Procedures for a Non-Walleye Lake System, the Tribes' authorization of their members' use of Impoundment Nets or Long Seines in Non-Walleye Lake Systems shall be subject to the Interim Threshold Level Procedures set forth in this Section IV.

4.2. Objectives of the Interim Threshold Level Procedures; Methods for Achieving Objectives. The foremost objective of Interim Threshold Level Procedures is to maintain the total annual exploitation rate of all species of fish in Non-Walleye Lake Systems at acceptable levels. A second objective of Interim Threshold Level Procedures is to ensure that Tribal members have an opportunity to use Impoundment Nets and Long Seines to harvest fish

in Non-Walleye Lake Systems without requiring implementation of the more rigorous management practices that will be required under Allocation-Based Procedures. These objectives are accomplished by: (1) implementing a permit system that controls harvest by limiting annual Fishing Effort by Tribal members using Impoundment Nets and Long Seines on each Non-Walleye Lake System, as set forth in Paragraph 4.4 of this Protocol; and (2) applying daily bag limits, possession limits, and size limits, as set forth in Paragraph 11.3 of the Decree and Section VI of this Protocol.

4.3. Fishing Effort Limitations under Interim Threshold Level Procedures. The Tribes shall limit their members' Fishing Effort with Impoundment Nets and Long Seines in each Non-Walleye Lake System in order to protect the fish populations in those Systems. The premise for these Fishing Effort limitations is that the Fishing Effort limitations under the Threshold Level Procedures, as set forth in Section VI of Appendix B1, are adequate to protect non-walleye species in Walleye Lake Systems and should likewise be adequate to protect non-walleye species in Non-Walleye Lake Systems. To achieve this objective, the Tribes shall require their members to obtain a Tribal permit for the use of Impoundment Nets and Long Seines that is specific to a Non-Walleye Lake System and that specifies the starting date and time of each 24-hour period during which the permit is valid. Fishing Effort with Impoundment Nets and Long Seines on a Non-Walleye Lake System shall be limited in accordance with Paragraph 4.4.

4.4. Fishing Effort Limitations under Interim Threshold Level Procedures. The Tribes shall limit the use of Impoundment Nets and Long Seines in each Non-Walleye Lake System as set forth in this Paragraph 4.4. The Tribes shall limit each permit for the use of Impoundment Nets or Long Seines to the use of a single Impoundment Net or a single Long

Seine during one or more 24-hour period(s). The total number of such 24-hour periods in all such permits in a particular Non-Walleye Lake System shall be limited as follows:

a. No more than three (3) 24-hour periods per 100 surface acres per year in Non-Walleye Lake Systems of 1,000 surface acres or more, excluding tributaries, rounded to the nearest whole number; and

b. No more than one and one-half (1.5) 24-hour periods per 100 surface acres per year in Non-Walleye Lake Systems of less than 1,000 surface acres, excluding tributaries, and rounded to the nearest whole number.

The Tribes shall maintain a running tally of the number of 24-hour periods in such permits for each Non-Walleye Lake System and, when the number of such 24-hour periods under all such permits for a particular Non-Walleye Lake System reaches the limit for that Non-Walleye Lake System, the Tribes shall cease issuing permits for the use of Impoundment Nets or Long Seines for that Non-Walleye Lake System.

4.5. **Permit Requirements.** The Tribes shall require their members to obtain a permit for the use of Impoundment Nets or Long Seines in a Non-Walleye Lake System that is specific to that Non-Walleye Lake System and that specifies the 24-hour period(s) during which the permit is valid. The permit shall include the name of the Tribal member, the date(s) and times during which the permit is effective, and the name of the Non-Walleye Lake System for which the permit is issued. The permit shall be consistent with the management objectives of the Tribal permit system and these Interim Threshold Level Procedures. The Tribes shall require their members to have such permits in possession when Fishing under the provisions of these Interim Threshold Level Procedures. The Tribes shall not issue more than one such permit per member for use in any Non-Walleye Lake System during a 24-hour period.

4.6. **Monitoring Harvest under Interim Threshold Procedures.** The Tribes shall require that Tribal members report harvests using Impoundment Nets or Long Seines under these Interim Threshold Level Procedures as a condition of receiving a permit. The Tribes shall provide an annual summary of these harvest reports to the State and all Tribes by January 31 of the year following the harvests, or by such other date as may be mutually agreed upon by the State and the Tribes. This annual summary shall include the number of permits issued and the total number of fish harvested by species, gear type, and Tribe for each Non-Walleye Lake System.

4.7. **Monitoring Fishing Activity under Interim Threshold Level Procedures.** The Tribes shall monitor Fishing activity by Tribal members using Impoundment Nets or Long Seines under Interim Threshold Level Procedures as necessary to ensure compliance with Tribal fishing regulations and Tribal permits. The Tribes shall use professional biological or law enforcement personnel when monitoring of Fishing activity is deemed necessary under this Paragraph. If violations are detected, they shall be handled in accordance with law enforcement procedures described in Section XXIV (Law Enforcement) of the Decree.

4.8 **Future Changes to Interim Threshold Level Procedures.** The State and the Tribes may modify these Interim Threshold Level Procedures by mutual agreement. Requests for such a modification, including the supporting biological documentation and the duration of the proposed change, shall be submitted in writing to the State and all Tribes by July 1 of the year preceding the effective date of the proposed modification, or by such other date as may be mutually agreed upon by the State and the Tribes. Requests for a modification to Interim Threshold Level Procedures shall be reviewed by State and Tribal biologists to ensure that the modification will protect the fish species in the affected Non-Walleye Lake System and complies

with the objectives and rules of this Protocol. The Tribes and the State shall declare whether or not they agree with a requested modification to Interim Threshold Level Procedures for a Non-Walleye Lake System by December 15 of the year the request was received. If the Tribes and the State agree to change Interim Threshold Level Procedures, the new procedures shall be recorded and shall be used for the particular Non-Walleye Lake System(s) for which it was proposed for the agreed-upon duration or until changed by the State and the Tribes under this Paragraph.

V. ALLOCATION-BASED PROCEDURES

If one or more Tribes desires to authorize Fishing Effort in excess of the limitations set forth under Section IV of this Protocol, the Tribes and the State shall develop Allocation-Based Procedures to prevent the combined harvest by State and Tribal fishers from exceeding a mutually acceptable harvest level for any species. The primary goal of Allocation-Based Procedures is to protect fish populations from Overfishing so that fishery resources are maintained in a healthy condition for the benefit of all current and future State and Tribal users, while at the same time providing the Tribes and the State with flexibility in managing the Fishing activity of Tribal and State fishers. Under such Allocation-Based Procedures, the Tribes may declare their intent to authorize the use of Impoundment Nets and/or Long Seines to harvest up to 50% of the mutually acceptable harvest levels for any species in a Non-Walleye Lake System, less a reasonable estimate (based on information obtained under Paragraph 7.6(b) of Appendix B1 for that Non-Walleye Lake System) of the harvest by Tribal members using other fishing methods. A Tribe seeking to authorize Fishing Effort in excess of the limitations set forth under Section IV of this Protocol shall provide written notice to the State and all other Tribes at least one year preceding the year in which the Fishing Effort is to occur.

VI. BAG, POSSESSION, AND SIZE LIMITS AND SEASONS

The Tribes shall use bag, possession, and size limits and seasons to regulate their members' harvest of species of fish with Impoundment Gear or Long Seines in a Non-Walleye Lake System in accordance with Paragraph 11.3 of the Decree, including daily bag, possession, and minimum size limits for the harvest of trout, bass, northern pike, and muskellunge and daily bag and possession limits for the harvest of bluegill, sunfish, crappie, lake whitefish, and yellow perch.